

EXHIBIT B

1517

1 UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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4 TERRI PECHNER-JAMES
and SONIA FERNANDEZ,

5 Plaintiffs,

6 VS. VOLUME VIII
C.A. NO. 03-12499-MLW

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8 CITY OF REVERE; THOMAS
AMBROSINO, MAYOR; CITY OF
REVERE POLICE DEPARTMENT,
9 TERRENCE REARDON, CHIEF;
BERNARD FOSTER, SALVATORE
10 SANTORO, ROY COLANNINO,
FREDERICK ROLAND, THOMAS DOHERTY,
11 JOHN NELSON, JAMES RUSSO,
MICHAEL MURPHY, and STEVEN FORD,

12 Defendants.

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15 CONTINUED DEPOSITION of SONIA FERNANDEZ taken
16 at the request of the defendants pursuant to
17 Rule 30 of the Federal Rules of Civil Procedure
18 before Dawn J. Cormier Bourn, a notary public in
19 and for the Commonwealth of Massachusetts, on
20 June 21, 2006, commencing at 9:17 a.m. at the
21 Revere City Hall, 281 Broadway, Revere,
22 Massachusetts.
23
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1 A P P E A R A N C E S :

2

3 FOR THE PLAINTIFF:

4 DAWNE H. THORNE, ESQ.
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5 Boston, Massachusetts 02108

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7 FOR THE DEFENDANT, CITY OF REVERE; THOMAS
AMBROSINO, MAYOR; CITY OF REVERE POLICE
DEPARTMENT, TERRENCE REARDON, CHIEF:

8 WALTER H. PORR, JR., ESQ., and
9 PAUL CAPIZZI, ESQ.
Office of the City Solicitor
10 City Hall, 281 Broadway
Revere, Massachusetts 01251

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12 FOR THE DEFENDANTS, BERNARD FOSTER, SALVATORE
SANTORO, ROY COLANNINO, FREDERICK ROLAND,
13 THOMAS DOHERTY, JOHN NELSON, JAMES RUSSO,
MICHAEL MURPHY AND STEVEN FORD:

14 JOHN K. VIGLIOTTI, ESQ.
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4 I N D E X

5 DEPONENT: SONIA FERNANDEZ

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7 FURTHER EXAMINATION BY MR. PORR

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12 EXHIBITS

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14 45 ANSWERS TO INTERROGATORIES

15 46 HANDWRITTEN NOTES

16 47 JULY 6, 1998 NOTE

17 48 SEPTEMBER 11, 1998 NOTE

18 49 SEPTEMBER 22, 1998 NOTE

19 50 OCTOBER 2, 1998 NOTE

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1 SONIA FERNANDEZ, PREVIOUSLY SWORN.

2 - - - - -

3 MS. THORPE: I know we're 15 minutes

4 late, so do you want to go 15 minutes later?

5 MR. PORR: Okay.

6 - - - - -

7 FURTHER EXAMINATION BY MR. PORR:

8 Q. So we're back on the record with

9 Ms. Fernandez. Good morning.

10 A. How are you?

11 Q. Good, thank you. How about yourself?

12 A. Tired.

13 Q. Having trouble sleeping?

14 A. Yeah.

15 Q. Still?

16 A. Yeah.

17 Q. Take any medication today?

18 A. Nothing.

19 Q. All right. Aside from tired, are you

20 feeling okay?

21 A. Yeah. Yes, sorry. Yes.

22 Q. Madam reporter asked me before we

23 started to ask you to speak up.

24 A. Okay. I'm sorry. You know what it

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1 A. I don't know. I saw it.
 2 Q. Okay.
 3 A. I wasn't the only one who saw it.
 4 Q. I understand.
 5 A. I probably wrote it in one of the
 6 notes that I gave to Attorney Dilday. I'm not
 7 sure.
 8 MR. PORR: Let me mark that as next in
 9 order.
 10 (Deposition Exhibit No. 46 marked.)
 11 Q. Okay. You made reference -- I only
 12 have one copy, so bear with me.
 13 So you made reference to some notes
 14 you gave Attorney Dilday. I've just had a
 15 document marked as Exhibit 46. Are those the
 16 notes that you're referring to?
 17 A. Yes. It was an educated guess, but I
 18 guess I'm wrong.
 19 Q. Okay. Could you look through those
 20 notes and tell me if there's any reference to the
 21 chalkboard drawing alleged in Paragraph 96?
 22 A. Okay. (Pause in testimony while
 23 reviewing document.)
 24 No, I don't see it.

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1 Q. Are these notes that we're looking at,
 2 Exhibit 46, are they in your handwriting?
 3 A. Yes.
 4 Q. And it looks like the original was on
 5 standard school notebook paper?
 6 A. Yes.
 7 Q. When did you write these notes?
 8 A. I used it -- well, I wrote them when
 9 they happened.
 10 Q. So did you keep a notebook where you
 11 started recording notes of events that happened
 12 concerning the Revere Police Department?
 13 A. You mean like a diary?
 14 Q. I guess I was asking, do these notes
 15 all come from the same notebook?
 16 A. I don't know. I don't think so.
 17 Q. Okay. Are these all of your notes?
 18 A. Yes, I believe so.
 19 Q. All right. So as you sit here now,
 20 there's no reference to the chalkboard drawing
 21 referred to in Paragraph 96 in the complaint in
 22 these notes?
 23 A. I know where I saw it, the date.
 24 Q. Okay. Where?

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1 A. Officer Malatesta, her notes.
 2 Q. You've seen Officer Lynn Malatesta's
 3 notes?
 4 A. Yes, I have.
 5 Q. Where did you see those notes?
 6 A. In my attorney's office.
 7 Q. Mr. Dilday has them?
 8 A. I believe so.
 9 Q. When did you last see Officer Lynn
 10 Malatesta's notes in Mr. Dilday's office?
 11 A. Years ago.
 12 Q. Can you be a little more precise in
 13 terms of how many years ago?
 14 A. Two or three.
 15 Q. Do you know how Mr. Dilday came about
 16 a copy of Officer Lynn Malatesta's notes?
 17 A. I don't know if she gave me a copy or
 18 if she gave Officer James a copy.
 19 Q. Okay. When you say Officer James, you
 20 mean Terri?
 21 A. Terri.
 22 Q. The only reason I ask for the
 23 distinction is because there's Officer Mark James
 24 as well.

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1 A. Sorry.
 2 Q. Had you seen Lynn Malatesta's notes
 3 prior to seeing them in Mr. Dilday's office?
 4 A. Yes.
 5 Q. When did you first see Lynn
 6 Malatesta's notes?
 7 A. I don't remember.
 8 Q. What was the occasion that resulted in
 9 you seeing Lynn Malatesta's notes the first time?
 10 A. I can tell you the reason she showed
 11 me.
 12 Q. Sure.
 13 A. They were -- when I went and I didn't
 14 know what to do with Lieutenant Foster, they told
 15 me that they would be a witness for me if I
 16 needed one.
 17 Q. Who is the "they" that you're talking
 18 about here?
 19 A. Lynn Malatesta, Julie Malvarosa.
 20 Q. Was this at some sort of a meeting the
 21 women were having?
 22 A. No, no, just a general conversation we
 23 had at the station.
 24 Q. And Lynn had these notes with her at

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1 the time?

2 A. No, no. I don't know if she brought

3 them to work and I read them in the cruiser or if

4 she gave me a copy of them. I don't remember.

5 Q. How many pages of notes did Lynn have?

6 A. Lynn has a lot of pages.

7 Q. More than 10?

8 A. Yes.

9 Q. More than 20?

10 A. Possibly.

11 Q. As many as 30?

12 A. I don't know.

13 Q. As many as 50?

14 A. No, I don't think 50.

15 Q. Okay. So somewhere between 20 and 30?

16 A. I think so.

17 Q. Handwritten?

18 A. I don't remember.

19 Q. Because we've got 21 pages of notes

20 from Terri Pechner which are typed, and then we

21 have a few pages of notes from you which are

22 handwritten.

23 A. I think she wrote them. I think she

24 wrote them.

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1 Q. Eight-and-a-half by 11 size paper?

2 Normal size paper?

3 A. Like your notebook.

4 Q. Like my note pad?

5 A. Yes.

6 Q. Single spaced?

7 A. Yes. I would say yes.

8 Q. Okay. Do you recall the time period

9 that the notes covered?

10 A. What do you mean?

11 Q. The notes, were they in chronological

12 order?

13 A. Yes. She's very detailed like that.

14 Q. And did they start, for instance, back

15 in September of '95 or February of '96 and go in

16 chronological order until some end date?

17 A. Yes.

18 Q. Do you recall the date the notes

19 started?

20 A. No. I don't remember.

21 Q. Did they cover anything that occurred

22 at the academy?

23 A. I don't know.

24 Q. You went to the academy with Lynn;

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1 correct?

2 A. Yes, yes.

3 Q. And that was roughly September of '95

4 until roughly February of '96?

5 A. Yes.

6 Q. And then you and Lynn and the rest of

7 those academy graduates went to work as police

8 officers for the city as opposed to being cadets

9 at the academy in February of '96?

10 A. Right.

11 Q. Assuming then that the notes picked up

12 with anything that may have happened once you got

13 here working for the City of Revere in February

14 of '96, and you indicated they seemed to go in

15 chronological order, do you know the end date for

16 the notes that you saw?

17 A. They're probably still going.

18 Q. All right. So your recollection is

19 that Lynn showed you a copy of her notes at least

20 once while you were still working for the Revere

21 Police Department?

22 A. Yes.

23 Q. You have since seen the notes in

24 Attorney Dilday's office?

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1 A. I did.

2 Q. Have you seen them any other time?

3 A. No.

4 Q. When you looked at Lynn's notes at

5 Attorney Dilday's office, were you looking at a

6 document that was consistent with what you had

7 seen before?

8 A. Sorry. No.

9 Q. What was different?

10 A. Oh, you mean when I saw her notes

11 again?

12 Q. Yeah.

13 A. They looked exactly the same. I'm

14 sorry.

15 Q. That's fine.

16 What I was looking for, had Lynn added

17 any additional pages since the last time you had

18 seen them?

19 A. Oh, I don't remember.

20 Q. Because presumably there's a gap in

21 time between when you first saw them and when you

22 next saw them?

23 A. Right.

24 Q. Do you know what that gap is? A

<p style="text-align: right;">1541</p> <p>1 couple years?</p> <p>2 A. Possibly.</p> <p>3 Q. All right. And that's what I'm</p> <p>4 getting at. You said a moment ago Lynn is</p> <p>5 probably still taking notes.</p> <p>6 A. Yes.</p> <p>7 Q. So I would assume that when you first</p> <p>8 saw the notes they were complete up to that time?</p> <p>9 A. Right.</p> <p>10 Q. And then a couple years later you saw</p> <p>11 them in Attorney Dilday's office, and what I was</p> <p>12 wondering is, did you see additional notes you</p> <p>13 hadn't seen before covering that gap?</p> <p>14 A. No. No. If they were there, I didn't</p> <p>15 read them.</p> <p>16 Q. So have you -- go ahead.</p> <p>17 A. If I did read them, I don't remember.</p> <p>18 Q. Okay.</p> <p>19 A. I'm being honest.</p> <p>20 Q. That's fine.</p> <p>21 And let me back up and just double-</p> <p>22 check. Have you seen the notes more than twice?</p> <p>23 A. I saw them twice.</p> <p>24 Q. Lynn showed them to you once.</p>	<p style="text-align: right;">1543</p> <p>1 Q. I want you to tell me the</p> <p>2 circumstances surrounding you seeing it.</p> <p>3 A. Oh, I was walking out of the guard</p> <p>4 room and I was leaving. It was inside the little</p> <p>5 hallway adjacent to the radio room and a door</p> <p>6 that leads into a long corridor into the roll</p> <p>7 call room. It was on a big chalkboard.</p> <p>8 Q. How big is the chalkboard?</p> <p>9 A. From here to here.</p> <p>10 Q. Okay. So it's a couple feet wide?</p> <p>11 A. Yes.</p> <p>12 Q. And how tall is it?</p> <p>13 A. Maybe from where you are to where I</p> <p>14 am.</p> <p>15 Q. Is it more of a square-shaped</p> <p>16 chalkboard?</p> <p>17 A. Yes, yes.</p> <p>18 Q. As opposed to a long rectangular one?</p> <p>19 A. Right.</p> <p>20 Q. What day was it? Do you know what day</p> <p>21 it was? Monday, Tuesday, Wednesday?</p> <p>22 A. No, I don't remember.</p> <p>23 Q. What time of day?</p> <p>24 A. I don't remember. Maybe -- I don't</p>
<p style="text-align: right;">1542</p> <p>1 Attorney Dilday showed them to you once.</p> <p>2 A. I don't know if I brought them to him</p> <p>3 or if Terri brought them to him.</p> <p>4 Q. No, I understand.</p> <p>5 A. I saw them in his office.</p> <p>6 Q. Right. So, again, Lynn showed you her</p> <p>7 notes once, and then next you saw them in</p> <p>8 Attorney Dilday's office?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And so it's your recollection</p> <p>11 going back to Paragraph 96 that the date of this</p> <p>12 incident, July of '98, you may be taking that</p> <p>13 from Lynn's notes?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Now, you indicated that you saw</p> <p>16 this drawing?</p> <p>17 A. Yes.</p> <p>18 Q. Tell me the circumstances that led to</p> <p>19 you seeing the drawing. What was going on?</p> <p>20 A. You don't want me to describe it to</p> <p>21 you?</p> <p>22 Q. I'm sorry?</p> <p>23 A. You don't want me to describe it, do</p> <p>24 you?</p>	<p style="text-align: right;">1544</p> <p>1 know. I don't know.</p> <p>2 Q. And you were walking from the guard</p> <p>3 room?</p> <p>4 A. To go down to the garage.</p> <p>5 Q. Where is the guard room?</p> <p>6 A. The guard room is the long -- where</p> <p>7 the long corridor is?</p> <p>8 Q. Right.</p> <p>9 A. The guard room is the roll call room.</p> <p>10 Sorry.</p> <p>11 Q. Okay. Were you at roll call or you</p> <p>12 just happened to have been in the room for</p> <p>13 something else?</p> <p>14 A. I don't know. It's been such a long</p> <p>15 time. I don't know what I was doing there. I</p> <p>16 don't know if I was at roll call or I was working</p> <p>17 an extra shift, if I was doing the morning shift.</p> <p>18 I don't know what --</p> <p>19 Q. As you walked down the hallway then,</p> <p>20 you walked past the drawing on the chalkboard?</p> <p>21 A. I looked at it and I put my head down</p> <p>22 and kept going.</p> <p>23 Q. Was anybody with you?</p> <p>24 A. Nope. Not that I remember.</p>

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1 which is sort of buried underneath there, if we
2 back up to Pages -- I'm sorry -- to Paragraphs 53
3 and 54 involving Sergeant Doherty, do they
4 likewise describe what we're looking at here in
5 2-D?

6 A. Yes.

7 Q. Okay. No. 3 on the December '98 --
8 Exhibit 28; right?

9 A. Uh-huh.

10 Q. No. 3 involved the bathroom issue in
11 terms of the physical structure of the old
12 building, the police department. Did you get a
13 female bathroom separate and apart --

14 A. Yes, we did.

15 Q. And did they also provide locker
16 facilities there?

17 A. Yes.

18 Q. And then No. 4 talks about matron
19 duties.

20 A. Yes.

21 Q. What about matron duties?

22 A. Just providing the women with the
23 sanitary needs that they needed.

24 Q. Does the Revere Police Department have

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1 female matrons?

2 A. No.

3 Q. So as of December of '98, in the
4 absence of having matrons on staff, who was
5 available to perform the matrons' duties, things
6 that matrons --

7 A. The females.

8 Q. And these are duties that are
9 specifically delegated that need to be performed
10 by females given the circumstances; correct?

11 A. Correct.

12 Q. So was the complaint here more in the
13 nature of you need to hire some matrons so that
14 we don't have to do those duties?

15 A. Yes, I think so.

16 Q. All right.

17 MR. PORR: Go off the record for a
18 minute.

19 (Discussion held off the record.)

20 MR. PORR: We just briefly had an
21 off-the-record discussion of the deposition
22 schedule.

23 Today we were supposed to go 9:00 to
24 noon. As the record will reflect, we got going

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1 at about 9:20, and it's now about 12:20, 12:25.
2 There's no way we can finish four additional
3 hours today, which is what I estimate the court
4 ordered two-and-a-half days it would take in
5 terms of completing those two-and-a-half days.

6 Ms. Thorne has obligations this
7 afternoon. Mr. Dilday has obligations this
8 afternoon. And so we're going to go ahead and
9 finish up for the day, and we'll reschedule the
10 remaining four hours later.

11 MR. VIGLIOTTI: While we're on the
12 record, there was reference in the record to
13 notes in the possession of Mr. Dilday. I believe
14 these individual defendants in discovery
15 requested any notes or correspondence relating to
16 the facts of this case, which those notes have
17 not been produced, nor was an objection filed.

18 I am asking for copies of those, if
19 you can bring it to Mr. Dilday's attention. I
20 just want that on the record in regards to those
21 notes.

22 MR. PORR: Lynn Malatesta's notes?

23 MR. VIGLIOTTI: Lynn Malatesta's
24 notes, which it doesn't sound like there's an

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1 attorney-client privilege. Testimony was given
2 here today regarding those notes, so I'd ask you
3 to relay that message to Mr. Dilday that I am
4 requesting those notes.

5 MS. THORPE: I will definitely relay
6 that message. This is the first I've heard of
7 Ms. Malatesta's notes, so -- .

8 MR. VIGLIOTTI: Me, too.

9 MR. PORR: Good enough. Thank you.

10 (Deposition concluded at 12:25 p.m.)

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